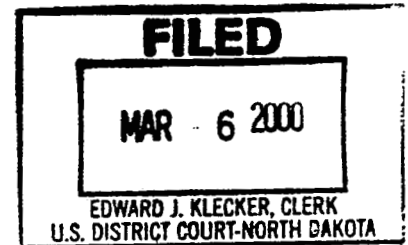


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHEASTERN DIVISION



UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
BENSON COUNTY, NORTH DAKOTA;)
BENSON COUNTY BOARD OF)
COMMISSIONERS; JOHN GRANN,)
CURTIS HVINDEN, BARRY COX,)
EDWARD RIPPLINGER, and)
ERLING KARLSBRAATEN, in their)
official capacity as members)
of the County Board of)
Commissioners; and)
FAY HUFFMAN, in her official)
capacity as the County Auditor)
for Benson County, North Dakota,)
)
Defendants.)
)

CIVIL ACTION NO. *A2-00-30*

COMPLAINT

The United States of America alleges:

1. This action is brought by the Attorney General on behalf of the United States pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973 and 1973j(d), and pursuant to 28 U.S.C. 2201.
2. This Court has jurisdiction over this action pursuant to 42 U.S.C. 1973j(f) and 28 U.S.C. 1345.
3. Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice or procedure that results in the denial or abridgment of the right to vote on account of race or color.

4. Defendant Benson County, North Dakota, is a political and geographical subdivision of the State of North Dakota.

5. The official governing authority of Benson County established under the laws of the State of North Dakota consists of the Benson County Board of Commissioners, which exercises the legislative and executive powers in the county.

6. Defendants JOHN GRANN, CURTIS HVINDEN, BARRY COX, EDWARD RIPPLINGER AND ERLING KARLSBRAATEN are members of the Benson County Board of Commissioners. Each of these defendants is a resident of Benson County and is sued in his or her official capacity.

7. Defendant FAY HUFFMAN is the County Auditor and in that capacity is in charge of elections for the county. Defendant, FAY HUFFMAN, is a resident of Benson County and is sued in her official capacity.

8. According to the 1990 Census, the total population of Benson County is 7,198 persons of whom 2,772 (38.5 percent) are American Indian.

9. According to the 1990 Census, the total voting age population of Benson County is 4,696 persons of whom 1,384 (29.4 percent) are American Indian.

10. Prior to 1992, the Benson County Board of Commissioners elected its members from single-member districts. According to the 1990 Census, two of the single-member districts were majority American Indian. In 1992, the Benson County Board of Commissioners changed to an at-large method of election and is

now composed of five-members who qualify to run from one of five residential districts but are elected at large by all the voters in the county. The terms of the members of the Board are for four years and are staggered so that elections are held every two years.

11. The Native American population in Benson County is sufficiently numerous and geographically compact such that, if the County Commissioners were elected from five properly apportioned single-member districts, Native American voters would constitute a voting age majority in two of the five districts.

12. Racially polarized voting patterns prevail in elections for the Benson County Board of Commissioners. Native American voters in Benson County are politically cohesive. In elections involving Native American candidates and white candidates for the Benson County Board of Commissioners, Native American voters vote cohesively for Native American candidates and white voters consistently vote as a bloc usually to defeat the Native American voters' candidates of choice in at-large elections.

13. Native Americans in Benson County have suffered from a history of official discrimination and continue to bear the effects of past discrimination in voting and other areas, such as education, employment and housing.

14. Social, civic, and political life in Benson County is divided along racial lines. The racial polarization results in Native American candidates having less opportunity to solicit the votes of the majority of voters, who are white, than the

opportunity available to white candidates to solicit the votes of those white voters.

15. The socioeconomic status of Native American citizens in Benson County is markedly lower than the socioeconomic status of the white population. The depressed socioeconomic status of the Native American population of Benson County is a continuing effect of past racial discrimination. These effects of past discrimination hinder the current ability of Native American citizens to participate effectively in the political process.

16. No Native American candidate for the Benson County Board of Commissioners has been elected to office under the current at-large method of election.

17. In elections for the County Board of Commissioners, a non-partisan primary is held to determine which candidates qualify for the general election. In the primary election, the two candidates receiving the most votes from the entire county will advance to the general election. Candidates may only run from the residency district where they reside. In the general election the top finisher is elected by the entire county to the County Board of Commissioners. The non-partisan primary election coupled with the staggered term and residency requirements, narrow the field of candidates, thereby ensuring a head-to-head race in the general election and enhancing the opportunity for discrimination against Native Americans.

18. The legitimate interests of Benson County would not be undermined in the event nomination for and selection of the

members of the Benson County Board of Commissioners were done on the basis of single-member district elections in lieu of the present at-large countywide elections.

19. Under the totality of the circumstances, the present at-large election system for the members of the Benson County Board of Commissioners results in Native American citizens having less opportunity than white citizens to participate in the political process and elect candidates of their choice to office in violation of Section 2 of the Voting Rights Act of 1965, as amended 42 U.S.C. 1973.

20. Unless enjoined by an order of this Court, defendants will continue to administer, implement, and conduct future elections for the Benson County Board of Commissioners under the present at-large system in violation of Section 2 of the Voting Rights Act, as amended, 42 U.S.C. 1973.


WHEREFORE, the United States prays that this Court enter an order:

- (1) Declaring that the existing at-large method of electing the Benson County Board of Commissioners violates Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973;
- (2) Enjoining defendants, their agents, and successors in office and all persons acting in concert with them from administering, implementing, or conducting any future

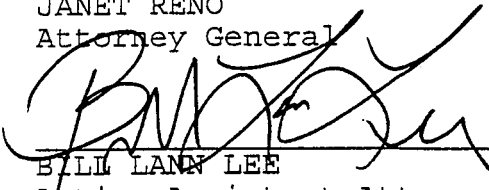
elections for the Benson County Board of Commissioners under the at-large method of election;

- (3) Ordering the defendants promptly to develop and present to the Court a district election plan that remedies the Section 2 violation. If the defendants fail to develop and present such a plan, the Court should order into effect a districting and election plan of its own design to remedy the Section 2 violation;
- (4) Ordering the defendants to set a qualifying time for candidates immediately and hold special elections soon thereafter for the Benson County Board of Commissioners under a lawful redistricting plan, and
- (5) Granting such additional relief as the interests of justice may require, together with the costs and disbursements of this action.

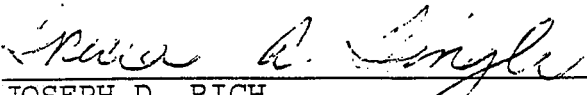
Dated this 6th day of March, 2000.



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